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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,259	09/29/2003	Bradford L. Farris	79439	2625

22242 7590 11/01/2006

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EXAMINER

ALMEIDA, DEVIN E

ART UNIT PAPER NUMBER

2132

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,259

Applicant(s)

FARRIS ET AL.

Examiner

Devin Almeida

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/29/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/06/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to the papers filed 9/29/2003. Claims 1-16 were received for consideration. No preliminary amendments for the claims were filed. Currently claims 1-16 are under consideration.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 9/06/2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Requirement for Information

Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

Due to the large quantity of documents supplied in the Information Disclosure Statement filed the 9/06/2005, the Examiner requires that the Applicant specifically explain or point out the relevant sections of each document listed on the IDS. See MPEP 704.10.

This requirement is an attachment of the enclosed Office action. A complete reply to the enclosed Office action must include a complete reply to this requirement. The time period for reply to this requirement coincides with the time period for reply to the enclosed Office action.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-9 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1-8 of prior U.S. Patent No. 6,980,655. This is a double patenting rejection. With respect to claim 1, Patent 6,980,655 claim 1 and application 10/674259 claim 1 both teach, generating a radio frequency oscillatory signal, generating a variable binary code, generator for generating a multi-value digit code responsive to the variable binary code, and modulating the radio frequency oscillatory signal with the multi-value digit code to produce a modulated multi-value digit coded variable radio frequency signal for operation or control of a secure actuator.

Claims 10-16 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1-7 of prior U.S. Patent No. 6,690,796. This is a double patenting rejection. With respect to claim 10, Patent 6,980,655 claim 1 and application 10/674259 claim 10 both teach, a receiver for receiving an encrypted signal from a transmitter and for generating an actuation signal, comprising: receiving an encrypted radio frequency signal, demodulating the encrypted radio frequency signal into a demodulated encrypted signal; synchronizing with and separating the demodulated encrypted signal

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into a variable code portion and a fixed code portion; testing the fixed code portion and generating a portion receipt signal in response thereto; testing whether a rolling code value is within a windowed range of rolling code values to avoid false triggering on a spurious rolling code having been transmitted by a person not having permission to authorize generation of the actuator signal and producing a rolling code signal in response thereto; updating the variable code to an incremented rolling code; and signal generating apparatus for producing an actuator signal to produce an actuator command in response to the verified fixed code portion and the variable code.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devin Almeida whose telephone number is 571-270-1018. The examiner can normally be reached on Monday-Thursday from 7:30 A.M. to 5:00 P.M. The examiner can also be reached on alternate Fridays from 7:30 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron, can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

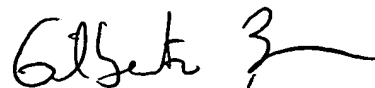
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DA

Devin Almeida
Patent Examiner
10/25/2006



GILBERTO BARRON JR
SUPERVISORY PATENT EXAMINER
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